

SENATE BILL NO. 423

INTRODUCED BY LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOL IGNITION INTERLOCK DEVICE LAWS AND LAWS GOVERNING ISSUANCE OF CERTAIN DRIVER'S LICENSES AFTER REVOCATION; REQUIRING CERTAIN DRIVER'S LICENSES TO CONVEY THE TERM OF PROBATION RESTRICTIONS IMPOSED ON THE LICENSEE FOR OPERATION OF A MOTOR VEHICLE; REQUIRING AN ALCOHOL IGNITION INTERLOCK DEVICE PROVIDER TO INCLUDE IN A LEASE AGREEMENT A WARNING REGARDING TAMPERING WITH OR MISUSE OF THE DEVICE; REMOVING ~~CERTAIN CONDITIONS~~ A CONDITION CERTAIN CONDITIONS UNDER WHICH A COURT MAY RESTRICT A PERSON TO DRIVING ONLY A MOTOR VEHICLE WITH AN IGNITION INTERLOCK DEVICE; AND AMENDING SECTIONS 61-5-208, 61-8-441, AND 61-8-442, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation -- probationary license -- ignition interlock device ~~allowed on first offense~~ restrictions -- notation on driver's license. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways, except as permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for a first offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for a first offense of operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall suspend the license or driving privilege of the person for

1 a period of 1 year and may not issue a probationary license during the period of suspension. If the 1-year
2 suspension period passes and the person has not completed a chemical dependency education course,
3 treatment, or both, as ordered by the sentencing court, the license suspension remains in effect until the course,
4 treatment, or both, are completed.

5 (c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third,
6 or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior
7 conviction and the date of the offense that resulted in the most recent conviction.

8 (3) (a) If the person pays the reinstatement fee required in 61-2-107 and provides the department proof
9 of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license
10 suspension of a person who has been convicted of a first violation of 61-8-401 or 61-8-406 and return the
11 person's driver's license. The stay must remain in effect until the period of suspension has expired and any
12 required chemical dependency education course, treatment, or both, have been completed.

13 (b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the
14 person has violated the court-imposed ignition interlock restriction by, including but not limited to operating a
15 motor vehicle not equipped with the device, tampering with the device, or removing the device before the period
16 of restriction has expired, the department shall lift the stay and reinstate the license suspension for the remainder
17 of the time period. The department may not issue a probationary driver's license to a person whose license
18 suspension has been reinstated because of violation of an ignition interlock restriction.

19 (4) (a) Except as provided in subsection (4)(b), the period of suspension or revocation for a person
20 convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license
21 commences from the date of conviction or forfeiture of bail.

22 (b) A suspension commences from the last day of the prior suspension or revocation period if the
23 suspension is for a conviction of driving with a suspended or revoked license.

24 (5) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor
25 vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.

26 (6) (a) A driver's license that is issued after a license revocation to a person described in subsection
27 (6)(b) must be clearly marked with a notation that conveys the term of the person's probation restrictions.

28 (b) The provisions of subsection (6)(a) apply to a license issued to a person for whom a court has
29 reported a felony conviction under 61-8-731, the judgment for which has as a condition of probation that the
30 person may not operate a motor vehicle unless:

1 (i) operation is authorized by the person's probation officer; or

2 (ii) a motor vehicle operated by the person is equipped with an ignition interlock device."

3
4 **Section 2.** Section 61-8-441, MCA, is amended to read:

5 **"61-8-441. Department rules regarding ignition interlock devices -- ignition interlock device**
6 **provider requirements.** (1) The department shall adopt rules providing for the approval of ignition interlock
7 devices and the installation, calibration, repair, and removal of approved devices.

8 (2) The department's rules must be based upon federal standards issued for similar devices.

9 (3) An ignition interlock device that is approved by the department must also:

10 (a) be designed so it does not impede safe operation of the vehicle;

11 (b) correlate well with the level established for alcohol impairment;

12 (c) work accurately and reliably in an unsupervised environment and under extreme weather conditions;

13 (d) require a deep lung breath sample or use an equally accurate measure of blood alcohol
14 concentration equivalence;

15 (e) resist tampering and show evidence of tampering if it is attempted;

16 (f) be difficult to circumvent;

17 (g) minimize inconvenience of a sober user;

18 (h) operate reliably over the range of automobile environments and in connection with various
19 manufacturing standards; and

20 (i) be manufactured by a person who is adequately insured for product liability; ~~and~~

21 ~~—— (j) have a label affixed in a prominent location~~

22 (4) An ignition interlock device provider shall include in any lease agreement for an ignition interlock
23 device a warning that a person who knowingly tampers with, circumvents, or otherwise misuses the device is
24 subject to criminal prosecution."

25
26 **Section 3.** Section 61-8-442, MCA, is amended to read:

27 **"61-8-442. Driving under influence of alcohol or drugs -- driving with excessive alcohol**
28 **concentration -- ignition interlock device.** (1) In addition to the punishments provided in 61-8-714 and
29 61-8-722, regardless of disposition, the court may, for a person convicted of a first offense under 61-8-401 or
30 61-8-406 and granted a probationary license, restrict the person to driving only a motor vehicle equipped with

1 a functioning ignition interlock device during the period that the person is granted a probationary license and
2 require the person to pay the reasonable cost of leasing, installing, and maintaining the device if:

3 ~~—— (a) the court determines that approved ignition interlock devices are reasonably available; and~~

4 ~~—— (b) the person's blood alcohol concentration at the time of the arrest was 0.16 or greater IF THE PERSON'S~~
5 ~~BLOOD ALCOHOL CONCENTRATION AT THE TIME OF THE ARREST WAS 0.16 OR GREATER.~~

6 (2) If a person is convicted of a second or subsequent violation of 61-8-401 or 61-8-406, in addition to
7 the punishments provided in 61-8-714 and 61-8-722, regardless of disposition, the court shall order that each
8 motor vehicle owned by the person at the time of the offense be either:

9 (a) seized and subjected to the forfeiture procedure provided under 61-8-421; or

10 (b) during the 12-month period beginning with the end of the period of driver's license revocation,
11 equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing,
12 installing, and maintaining the device ~~if the court determines that approved ignition interlock devices are~~
13 ~~reasonably available.~~

14 (3) Any restriction imposed under this section must be included in a report of the conviction made by
15 the court to the department in accordance with 61-11-101 and placed upon the person's driving record
16 maintained by the department in accordance with 61-11-102.

17 (4) The duration of a restriction imposed under this section must be monitored by the department."

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